

Office of Code Enforcement
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Dear Appeals Board,

I would like to throw a couple of paragraphs at you from a "Manual for Code Enforcement Officers: A Legal Perspective". This is the CEO's Legal "bible".

"VESTED RIGHTS. The Maine Supreme Court in *Sahl v. Town of York*, 200 MME 180, 760 A.2d 266, stated that 'in order for a right to proceed with construction under the existing ordinance to vest, three requirements must be met: (1) there must be the actual physical commencement of some significant and visible construction; (2) the commencement must be undertaken in good faith...with the intention to continue with the construction and to carry it through to completion; and (3) the commencement of construction must be pursuant to a validly issued permit' (citing a number of cases from Maine and other states). The court went on to note that 'rights may not vest solely because a property owner: (1) filed an application for a building permit; (2) was issued a building permit; (3) relied on the language of the existing ordinance; or (4) incurred preliminary expenses in preparing and submitting the application for a permit' (citing a number of Maine cases). In *Sahl* the court found that the landowner had acquired vested rights based on the facts and also found that an expiration clause applicable on its face to permits approved before a certain date did not apply to the project in question."

"Ambiguity Construed in Favor of Landowner. The restrictions of a zoning ordinance run counter to common law, which allowed a person to do virtually whatever he or she wanted with his or her land. The ordinance must be strictly interpreted. Where exemptions appear to be in favor of a property owner, they should be interpreted in the owner's favor. *Forest City v. Payson*, 239 A.2d 167 (Me. 1968).

Attorney Collier brought up these two points at the end of the last Appeals Board meeting. He also mentioned that Maine is one of the top three states in the U.S. for private property rights."

Obviously an attorney who is not certified to practice law in the state of Maine would be entirely unaware of these three important legal practices and that is a grave oversight.